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G-17-04

001674.107324

\$DAE  
ifw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Paul J. Young, et al.  
Serial No.: 10/663,154  
Filed: September 15, 2003  
For: STABLE ACIDIC MILK BASED BEVERAGE  
Customer No.: 29540

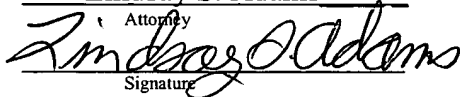
PETITION TO ACCORD FILING DATE

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the "Notice of Incomplete Nonprovisional Application" Applicants submit herewith a "Petition" to accord the above-identified application a filing date of September 15, 2003. A copy of the "Notice of Incomplete Nonprovisional Application" is enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express mail in an envelope addressed: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313, on June 16, 2004

Lindsay S. Adams  
Attorney  
  
Signature

June 16, 2004

Date of Signature

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-1145.

06/18/2004 JADD01 00000069 10663154

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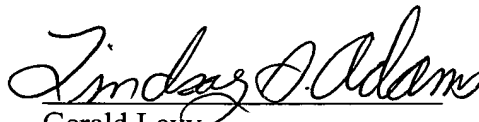
The "Notice" states that the specification and oath or declaration are missing. In response, Applicants submit a copy of the application as filed, which includes the submitted specification and combined Declaration and Power of Attorney. A copy of the date-stamped postcard indicating the receipt of the application is also enclosed.

In view of the submitted documents, it is clear that Applicants submitted a specification on September 15, 2003. Applicants therefore petition the Commissioner to accord this application a filing date of September 15, 2003.

A check for \$130.00 is also submitted for the requisite petition fee. In view that the application is entitled a filing date, Applicants hereby request a refund of \$130.00 to be deposited to our Account 50-1145.

If there are any questions regarding the Petition submitted herewith, it is respectfully requested that the undersigned attorney be contacted at the telephone number set forth below.

Respectfully submitted,

  
Gerald Levy  
Reg. No. 24,419

Lindsay S. Adams  
Reg. No. 36,425

Attorneys for Applicants

Pitney, Hardin LLP  
7 Times Square  
New York, New York 10036-7311  
(212)297-5800

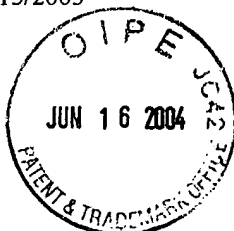


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/663,154	09/15/2003	Paul J. Young	001674.093686

Gerald Levy  
 Pitney, Hardin, Kipp & Szuch LLP  
 20th Floor  
 685 Third Avenue  
 New York, NY 10017



CONFIRMATION NO. 2150  
 FORMALITIES LETTER



\*OC000000012443483\*

Date Mailed: 05/18/2004

## NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The specification is missing.
- The specification does not include at least one claim.  
*A complete specification as prescribed by 35 U.S.C. 112 is required.*

Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450

RECEIVED

*A copy of this notice **MUST** be returned with the reply.*

MAY 21 2004

PITNEY HARDIN KIPP & SZUCH LLP

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

File No. 001674-093686 Atty. LSA

Postcard No. 062

Ser./Reg./Pat. No. \_\_\_\_\_ Due Date \_\_\_\_\_

The mail room date stamp acknowledges receipt on  
the date indicated of:

☒ Divisional Application

☐ Response to O.A.

☒ Assignment

☐ Notice of Appeal

☐ Priority Document

☐ Issue Fee Transmittal

☐ Statement of Use

☐ Amendment

☒ Declaration

☐ Brief

☐ Extension Request for

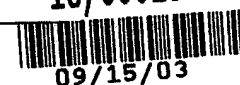
☒ Check for \$

☐ Small Entity

+ Power of Attorney

22151 U.S. PTO

10/663154



09/15/03

☒ Cover sheet, Transmittal,  
IDS + PTO 1449

File No. 001674-093686 Atty. LSA

Postcard No. 062

Ser./Reg./Pat. No. \_\_\_\_\_ Due Date \_\_\_\_\_

The mail room date stamp acknowledges receipt on  
the date indicated of:

☒ Divisional Application

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☐ Issue Fee Transmittal

☐ Statement of Use

☐ Amendment

☒ Declaration

☐ Brief

☐ Extension Request for

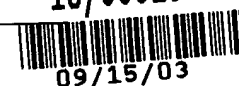
☒ Check for \$

☐ Small Entity

+ Power of Attorney

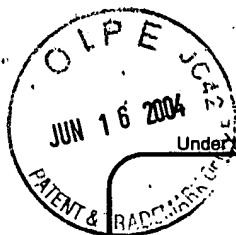
22151 U.S. PTO

10/663154



09/15/03

☒ Cover sheet, Transmittal,  
IDS + PTO 1449



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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	001674.093686
First Inventor	Paul J. Young
Title	Stable Acidic Milk....
Express Mail Label No.	EV 091972065 US

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

## ADDRESS TO:

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

- ☒ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
- ☐ Applicant claims small entity status.  
See 37 CFR 1.27.
- ☒ Specification [Total Pages 22]  
(preferred arrangement set forth below)
  - Descriptive title of the invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
- ☐ Drawing(s) (35 U.S.C. 113) [Total Sheets \_\_\_\_\_]
- Oath or Declaration [Total Sheets 2]
  - ☐ Newly executed (original or copy)
  - ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 18 completed)
    - ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s)  
name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
- ☐ Application Data Sheet. See 37 CFR 1.76

- ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
- Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - ☐ Computer Readable Form (CRF)
  - Specification Sequence Listing on:
    - ☐ CD-ROM or CD-R (2 copies); or
    - ☒ Paper
  - ☐ Statements verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

- ☐ Assignment Papers (cover sheet & document(s))
- ☐ 37 CFR 3.73(b) Statement of Power of Attorney (when there is an assignee)
- ☐ English Translation Document (if applicable)
- ☒ Information Disclosure Statement (IDS)/PTO-1449 [Copies of IDS Citations]
- ☐ Preliminary Amendment
- ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
- ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
- ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
- ☐ Other: .....

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/808,769

Prior application information: Examiner Leslie Wong Art Unit: 1761  
For CONTINUATION OF DIVISIONAL APPS only; The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 19. CORRESPONDENCE ADDRESS

☐ Customer Number: \_\_\_\_\_ OR ☒ Correspondence address below

Name	Gerald Levy		
Address	Pitney, Hardin, Kipp & Szuch LLP 685 Third Avenue		
City	New York	State	NY
Country	USA	Telephone	212-297-5800
		Zip Code	10017
		Fax	212-682-3485

Name (Print/Type)	Lindsay S. Adams	Registration No. (Attorney/Agent)	36,425
Signature		Date	9/15/03

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Paul J. Young, et al.  
Serial No.: Unassigned  
Filed: Herewith  
Art Unit: 1761  
For: STABLE ACIDIC MILK BASED BEVERAGE  
Examiner: Leslie Wong

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

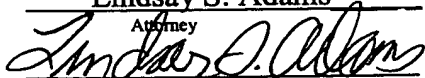
Sir:

Applicants respectfully request that the seventeen (17) references listed on attached PTO-1449 Form be considered and made of record in the above-identified application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313, on September 15, 2003

Lindsay S. Adams

Attorney

  
Signature

September 15, 2003

Date of Signature

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-1145.



Pursuant to 37 C.F.R. §1.98(d), copies of these documents have not been enclosed since they are of record in parent application, U.S. Serial No. 09/808,769, from which the present application claims priority.

Respectfully submitted,

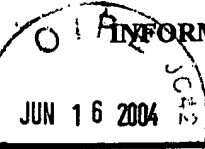
A handwritten signature in cursive script, appearing to read "Gerald Levy", is written over a horizontal line.

Gerald Levy  
Reg. No. 24,419

Lindsay S. Adams  
Reg. No. 36,425

Attorneys for Applicants

Pitney, Hardin, Kipp and Szuch, LLP  
685 Third Avenue, 20th Floor  
New York, New York 10017-4024  
(212)297-5800

<div style="text-align: center;">  <b>INFORMATION DISCLOSURE CITATION</b>  <i>(Use several sheets if necessary)</i> </div>	Docket Number (Optional) <b>001674.093</b>	Application Number
	Applicant(s) <b>Paul J. Young and Peter M. Bluestein</b>	
	Filing Date <b>Herewith</b>	Group Art Unit <b>1761</b>

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		4,676,988	6/30/87	Efstathiou	426	271	
		5,648,112	7/15/97	Yang et al	426	580	
		4,416,95	11/22/83	Ludstedt et al	426	34	
		4,520,036	5/28/85	Railland et al	426	271	
		4,031,264	6/21/77	Arolskiet al	426	590	
		4,046,925	9/6/77	Igoe	426	573	
		4,078,092	3/7/78	Nishiyama et al	426	584	
		3,692,532	9/19/72	Shenkenberg et al	99	28	
		2,859,115	11/4/58	Rivoche	99	28	
		4,460,616	7/17/84	Railland et al	426	580	
		3,800,052	3/26/74	Inagami et al	426	539	

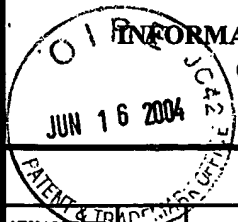
**FOREIGN PATENT DOCUMENTS**

REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

**OTHER DOCUMENTS** *(Including Author, Title, Date, Pertinent Pages, Etc.)*


EXAMINER	DATE CONSIDERED
----------	-----------------

**EXAMINER:** Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



**INFORMATION DISCLOSURE CITATION**  
(Use several sheets if necessary)

Docket Number (Optional) <b>001674.093</b>	Application Number
Applicant(s) <b>Paul J. Young and Peter M. Bluestein</b>	
Filing Date	Group Art Unit <b>1761</b>

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL	REF	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		3,764,710	10/2/73	Inagami et al	426	185	
		3,953,610	4/27/76	Little et al	426	39	
		4,212,893	7/15/80	Takahata	426	330	
		4,478,855	10/23/84	Dahlen et al	426	41	
		4,486,413	12/4/84	Weisenberger et al	424	177	
		3,525,702	12/7/71	Exler	99	59	

**FOREIGN PATENT DOCUMENTS**

	REF	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
							YES	NO

**OTHER DOCUMENTS** (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP Section 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

## COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor(s), I (We) hereby declare that:

My (Our) residence, post office address and citizenship are as stated below next to my (our) name(s). I (We) believe I (we) am (are) the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**STABLE ACIDIC MILK BASED BEVERAGE**, the specification of which is attached hereto unless the following is checked:

☐ was filed on \_\_\_\_\_ as United States Application

Number or PCT International Application Number \_\_\_\_\_

and was amended on \_\_\_\_\_ (if applicable).


I (We) hereby state that I (we) have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I (We) acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN APPLICATION(S)		(NONE)	
NUMBER	COUNTRY	DATE FILED	PRIORITY CLAIMED
			YES NO
			YES NO
			YES NO

I (We) hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

APPLICATION NO. 	FILING DATE NONE	STATUS PATENTED, PENDING, ABANDONED

I (We) hereby declare that all statements made herein of my (our) own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I (We) hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Joseph C. Sullivan, Registration No. 18,720; Gerald Levy, Registration No. 24,419; Ronald R. Santucci, Registration No. 28,988; Ronald E. Brown, Registration No. 32,200; John Gulbin, Registration No. 33,180; Peter W. Latimer, Registration No. 46,858 and Michael P. Stanley, Reg. No. 47,108. **\*I (We) further authorize my (our) attorney to insert the proper serial number and filing date awarded to my (our) application on this document, above my (our) signature(s).**

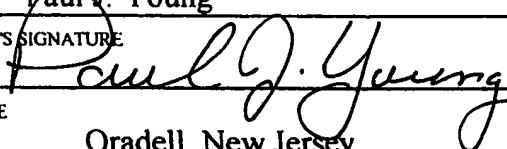
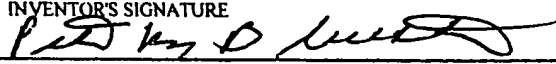
SEND CORRESPONDENCE TO: **Gerald Levy, Esq.**

**PITNEY, HARDIN, KIPP & SZUCH LLP**

711 Third Avenue  
New York, New York 10017-4059

DIRECT TELEPHONE CALLS TO: Gerald Levy

(212) 297-5824

FULL NAME OF SOLE OR FIRST INVENTOR <b>Paul N. Young</b>		CITIZENSHIP US
INVENTOR'S SIGNATURE 		DATE <b>3/7/2001</b>
RESIDENCE Oradell, New Jersey		
POST OFFICE ADDRESS 671 East Drive, Oradell, New Jersey 07649		
FULL NAME OF SECOND JOINT INVENTOR, IF ANY <b>Peter M. Bluestein</b>		CITIZENSHIP USA
INVENTOR'S SIGNATURE 		DATE <b>3/7/01</b>
RESIDENCE Demarest, New Jersey		
POST OFFICE ADDRESS 1 Village Court, Demarest, New Jersey 07627		
FULL NAME OF THIRD JOINT INVENTOR, IF ANY		CITIZENSHIP

**STABLE ACIDIC MILK BASED BEVERAGE**

**BACKGROUND OF THE INVENTION**

**Field of the Invention**

The present invention relates to a process for preparing a chilled beverage product, which contains milk and a food acid. The process of the present invention provides a means for making smooth-textured, low viscosity beverage products which contain milk proteins and a food acid, but which exhibit little or no sedimentation.

**Description of the prior Art**

When formulating a flavored drink containing milk proteins at a low pH of between pH 3.5 and 4.5, which contains milk solids, whey proteins are generally favored because they are soluble under acidic conditions. Acidic, flavored drinks with casein proteins are known to be unstable and produce large amounts of casein precipitate. A process and formulation for flavored low pH milk protein-containing beverages, which provides for significantly improved stability of the casein proteins with 97 to 99% stability is herein disclosed. The explanation of the chemistry is below.

Milk proteins are generally divided into two classes: casein and whey. Casein is generally recognized as being insoluble under acidic conditions around its isoelectric point of about 4.6. This property of milk proteins is well known and is generally exploited in the manufacturing of cheese. Whey protein is more

stable in acid solution and tends to offer less of a precipitation problem. A pH of 4.0 or less is desired for the milk beverage, however, to prevent microbial activity and thus allow for a longer shelf life and to provide a basis for fruit flavor.

Where a milk product which contains casein at a pH below 4.6 is desired, additional treatment is required such as the addition of stabilizers or other processes known in the art. Even these known processes have problems of precipitation over time, and require that the product be shaken prior to drinking.

Food grade stabilizers such as pectin, propylene glycol alginate, carboxymethylcellulose, xanthan gum, locust bean and combinations thereof have been used to prevent the sedimentation and coagulation of the milk proteins and to improve stability of the beverages. It is reported that even when these food stabilizers are employed, beverage products containing milk proteins and acid or acidic juice at a pH below 4.5 tend to exhibit undesirable sedimentation/ precipitation over time.

It would be desirable to provide a stable acidic, milk based beverage product which shows enhanced stability with little or no sediment or precipitation. This product should be prepared with conventional processing techniques. The present invention discloses a composition and processing technique for an acidic, milk based beverage with enhanced stability.

Known methods for combining acidic fruit juices with milk products have taken several general approaches. Most common is the addition of a stabilizer to the mixture to control precipitation of milk proteins at a lowered pH.

U.S. Patent No. 2,859,115 to Rivoche describes how mixing fruit juice with milk can cause milk proteins to precipitate, because the fruit juice lowers the pH of the beverage. The reference describes overcoming this problem through the use of stabilizers such as pectin. A food powder is mixed with a colloidal stabilizer such as pectin or algin in water, followed by the addition of an alkaline earth salt such as calcium carbonate. A dry acid powder, such as tartaric acid is then added to initiate gel formation. The stabilized mixture is then mixed with milk and stirred at a controlled shear so that the gel is broken up, and a desired viscosity is reached.

Similar approaches are employed in U.S. Patent 4,031,264 to Arolski, et al., U.S. Patent 4,046,925 to Igoe, and U.S. Patent 4,078,092 to Nishiyama, all employ similar methods of creating a gel-stabilized mixture, which viscosity is then adjusted by the controlled application of mechanical shear. In Arolski, et al., a fruit mash is mixed with milk and the ensuing coagulation is then controlled by the addition of pectin as a stabilizer. The mixture is stirred and sterilized prior to storage. Igoe involves the formulation of a thickening agent from carboxymethyl cellulose, locust bean gum and xanthan gum in admixture. This stabilizer, with sugar, is added to milk, followed by the addition of fruit juice. In Nishiyama sodium carboxymethyl cellulose is added to the fruit juice first to form a juice composition which can then be added to milk to produce a stable milk product.

U.S. Patent No. 5,648,112 to Yang, et al. describes mixing milk with a food stabilizer under high shear mixing conditions and maintaining a median particle size of less than 0.8 microns to prevent precipitation of milk proteins. Afterward, the pH is



reduced to between 3.2 and 4.5 by the addition of food grade acid.

U.S. Patent No. 3,692,532 to Shenkenburg, et al. describes a process whereby a stabilizer having carboxyl groups is added to milk, followed by the addition of fruit juice. According to the process disclosed, sugar and carboxymethyl cellulose are mixed with milk, and sufficient time allowed for the carboxyl groups of the stabilizer to react with the casein. The described reaction is said to occur at temperatures below 90°F, and the resulting mixture is aged, pasteurized and homogenized. The resulting product is stated to be stable at a pH below 5.0.

Another approach to creating a stable milk and fruit juice beverage is employed in U.S. Patent 4,520,036 to Rialland, et al., and U.S. Patent No. 4,676,988 to Efstathiou, et al. These two references describe a process whereby milk is passed through a cation exchange resin. The pH of the milk is thus lowered to a value 3.8 (Rialland, et al.) and to between 3.2 and 1.5 (Efstathiou, et al.).

Lastly, U.S. Patent No. 4,416,905 to Lundstedt, et al. describes permitting milk to ferment and achieve a pH in the range between 6.2 to 4.9 and then acidifying the beverage to a pH below 4.7, to produce a better tasting butter milk product

#### **SUMMARY OF THE INVENTION**

It is therefore the object of the present invention to provide a milk protein beverage which contains milk proteins and a food acid, said beverage having a long shelf life and exhibiting little or no sedimentation over time.

It is a further object of the present invention to provide a means for making a milk protein beverage which contains milk proteins and a food acid, said beverage having a long shelf life and exhibiting little or no sedimentation over time.

It is a further object of the present invention to provide a nutritious and flavorful milk protein beverage which exhibits a smooth texture and a low viscosity, and a means for making same.

The present invention relates to a composition and a process for preparing an acidic milk protein based beverage product. The products prepared according to the process of the present invention are stable and do not show sediment or precipitate over time. These products contain from about 0.5% to 5.0% milk proteins and 0.5 to 2.0% of a food stabilizer mixture and a food acid sufficient to lower the pH below 4.5.

The present invention comprises concentrated milk protein which is a dry powder which is reconstituted with water to form a solution of milk proteins, specifically casein and whey. The milk protein may be substituted with other milk products, such as whole milk, skim milk, dehydrated milk powder, etc.

The process of the present invention comprises, as a first step, mixing the milk proteins with a weak base to elevate the pH. The weak base can be a salt of a weak organic acid, such as sodium citrate, sodium malate, sodium lactate or sodium fumarate. Sodium citrate is the preferred weak base additive. The sodium citrate is added to the concentrated milk protein in sufficient amounts to raise the pH to a range of 7.0 to 8.0.

The addition of weak base creates an environment wherein the casein molecules are enhanced in a manner which promotes the

association of stabilizer molecules to the surface of the protein. The basic environment also reduces the role of calcium by inhibiting the bridging of calcium with the protein, thus limiting coalescence and sedimentation of the proteins.

Stabilizers are then added to the mixture. Stabilizers employed in the invention include pectin, propylene glycol alginate and others, which consist of acidic hydrocolloids. These acidic hydrocolloids are negative charged bodies when present in the basic environment. The negatively charged hydrocolloids adhere to the surface of casein molecules, forming colloidal complexes which are themselves negatively charged. These colloidal complexes resist agglomeration, and thus remain in stable suspension in the mixture, even at low pH and low viscosity.

The food stabilizer is added under low shear conditions sufficient to form an intimate mixture. These conditions avoid excessive shear for extended periods of time, which can act to break up the negatively charged colloidal complexes, denature the milk proteins and cause foam.

Upon formation of the negatively charged colloidal complexes which effectively stabilize the milk proteins, optional ingredients, such as flavors, colors, sweeteners, vitamin and mineral supplements, microbiological stabilizers, etc. may then be added. The mixture is then homogenized and cooled below 30°C, preferably below 10°C.

Acid is then added under low shear conditions to the cooled mixture. A food grade acid such as citric acid is added to bring the pH down to between 3.2 and 4.5. The acid is added in a chilled state, generally below 10°C. Mixing remains under low-

shear conditions, so as not to break up the stable colloidal complexes.

The final product is then packaged and may stored at room temperature or refrigerated.

#### **DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT**

The present invention relates to a formulation and process for preparing acidic milk based beverage products which develop little or no sediment or precipitation over time. The beverages provide the milk appearance and the flavor of a fruit flavored milk drink at a low viscosity, thus providing a refreshing and rich beverage which is unique.

Generally, milk products are formulated at a high pH to avoid sedimentation and precipitation. Milk proteins are known to be unstable at low pH. The stability of the protein must be enhanced with food grade stabilizers or gums, which coat the surface of the protein and inhibit the sedimentation. Mixing of the milk protein with a weak base enhances the structure of the casein proteins and improves the coating of the casein particle with the stabilizing gums. The weak base also can reduce the role of calcium in promoting the coalescence and sedimentation of milk proteins. The stabilizers can be predissolved in water or added directly to the alkaline milk protein base under low shear conditions, to produce the intimate mixture of milk proteins and stabilizers. Optional ingredients are added and the mixture is homogenized to ensure a uniform mix and dispersion. Acid is added under cooled conditions to a pH below 4.5.

Particular ingredients and processing steps are described below.

## A. Process Materials

The materials employed in the process of the present invention include milk or concentrated milk protein, a weak base, a food acid and food stabilizer, as well as other optional ingredients. These are described more particularly as follows:

### 1. Milk

The milk proteins used in the process of the present invention may be derived from all forms of milk including, but not limited to, whole milk, skim milk, milk powder, concentrated milk proteins and whey. The milk proteins can be from a dairy ingredient of any form: native, homogenized, concentrated or powder. The amount of milk protein employed in the formulation of the present invention and present in the final beverage products will typically range from about 0.5% to about 5.0% preferably from about 1.0% to about 4.0% which is equivalent to the protein content of native milk.

### 2. Weak Base

The formulation and process employ a weak base to condition the structure of the milk proteins for coating with food stabilizers. The weak base can be salts of weak organic acids like sodium citrate, sodium malate, sodium lactate, or sodium fumarate. Sodium citrate is preferred. Typically, when this is added to the milk proteins, the resulting pH is within a range of 7.0 to 8.0, preferably 7.3-7.7.

### 3. Food Acid

The process of the present invention also employs a food acid. The food acid can include any food grade organic or inorganic

acid, for example, citric acid, malic acid, lactic acid, gluconic acid, succinic acid, tartaric acid, phosphoric acid, fumaric acid, and ascorbic acid. Aliphatic hydroxycarboxylic acids (e.g., malic acid, lactic acid, and citric acid) are typically preferred for use herein. Citric acid is most preferred for use herein.

The amount of acid employed is an amount sufficient to adjust the pH of the milk/stabilizer mixture to from about 3.2 to about 4.5, preferably from about 3.5 to about 4.5, most preferably from about 3.8 to about 4.2. Where the acid used is citric acid, typically the citric acid is added in an amount ranging from about 0.3% to about 1.0% by weight of the beverage, preferably between 0.5 to 0.8%.

#### 4. Stabilizer

The various food stabilizers which can be employed in the present invention include hydrophilic colloidal stabilizers commonly known in the art such as gum arabic, gelatin, xanthan, locust bean, propylene glycol alginate, and pectin, as well as anionic polymers derived from cellulose (e.g., carboxymethylcellulose), which are water soluble and tolerant of low pH's. A blend of pectin and propylene glycol alginate is typically preferred for use herein.

The stabilizer is typically used in an amount ranging from about 0.1% to about 2.0% by weight of the beverage, preferably from about 0.3% to about 1.0%. The amount of stabilizer used is dependent in part on the level of milk solids present in the beverage product. In general, the greater the level of milk solids present in the beverage, the more stabilizer that will be required to stabilize the beverage. The mixture of stabilizers

can be adjusted to provide low beverage viscosity and stability of the milk proteins.

## 5. Other Ingredients

Acid dairy beverages usually are formulated to provide a base for fruit flavored products. The fruit flavor can be supplied from fruit juice, fruit concentrates, or flavors, as desired.

The formulation of the present invention can also employ a sweetener. The sweetener can include, for example, maltose, sucrose, glucose, fructose, invert sugars and mixtures thereof. These sugars can be incorporated into the beverage products in solid or liquid form, but are typically incorporated as a syrup, more preferably as concentrated syrup such as high fructose corn syrup. For purposes of preparing the beverage products described herein, these optional sweeteners can be provided to some extent by other components of the beverage products, such as by the fruit juice component. Sweeteners are typically employed in the process of the present invention in amounts ranging from about 0.0% to about 15%.

Preferred carbohydrate sweeteners for use in the process of the present invention are sucrose, fructose and mixtures thereof. Fructose can be obtained or provided as liquid fructose, high fructose corn syrup, dry fructose or fructose syrup, but is preferably provided as high fructose corn syrup. High fructose corn syrup (HFCS) is commercially available as HFCS-42, HFCS-55 and HFCS-90, which comprise 42%, 55% and 90%, respectively, by weight of the sugar solids therein as fructose.

Artificial or noncaloric sweeteners for use in the formulation of the present invention include, for example, saccharin,

cyclamates, acetosulfam, L-aspartyl-L-phenylalanine lower alkyl ester sweeteners (e.g., aspartame). A particularly preferred sweetener is aspartame. They may be used as the sole source of sweetness or in combination with caloric sweeteners discussed above. Artificial or noncaloric sweeteners, if used, are typically employed in an amount ranging from about 0.02% to about 1%, preferably from about 0.02% to about 0.10% by weight of the beverage products.

The process of the present invention can also optionally employ a preservative. Any food grade preservative can suitably be used in the process of the present invention. Suitable preservatives include sorbic acid, benzoic acid, alkali metal salts thereof, and mixtures thereof. Preferred preservatives include sodium benzoate and potassium sorbate. The preservative is typically present in an amount ranging from about 0.01% to about 0.10% by weight of the beverage product, depending on the method and temperatures of commercial distribution.

The formulation of the present invention can also be fortified with various vitamins and minerals.

#### B. Process Steps

Milk proteins are added to a solution of a weak base. If the milk protein are in the dry form sufficient time is provided for a uniform dispersion and hydration. This time is highly dependent on the temperature of the solution. At 35°C, two minutes at high shear and 10 minutes at low shear are sufficient to provide a uniform dispersion. The resulting mixture has an elevated pH, which is within a range of 7.0 to 8.0, preferably 7.3 to 7.7.



Stabilizers perform best when they are prepared by dispersion and hydration in heated water before the addition to milk proteins. This can be accomplished by many combinations of time, temperature, and shear and depends on the stabilizers employed. For the preferred pectin and propylene glycol alginate mixture, it is desirable to use heated water at a temperature between 55°C and 75°C. Under high shear conditions, 5 minutes is sufficient to disperse and hydrate the stabilizers. Under low shear conditions, 20 minutes is sufficient to disperse and hydrate the stabilizers. The fully hydrated stabilizers are added to the alkaline milk proteins employing low shear and sufficient time to ensure a complete mixture.

Optional ingredients can then be added to the weak base/milk protein/stabilizer mix. If these ingredients are in dry form like sodium benzoate, etc., care should be taken to ensure a complete solution is achieved.

The unacidified mix is homogenized under conventional conditions. A two-stage piston homogenizer can be employed at 500/2000 homogenization pressures. The homogenization pressures are not critical to the process and should be sufficient to provide a smooth homogenous mix.

Acid can then be added to the homogenized mixture with low shear. It is beneficial to dissolve powdered acids before their addition to the protein mixture. This provides a better mixing of the acid with the protein under low shear conditions. The mix should be cooled before the addition of acid to below 30°C, preferably below 10°C. The acid is similarly cooled to between 1°C and 30°C. Acid addition rate is not critical to the stability of the mix.

## EXAMPLES

### Example 1

Ingredients are used in the following proportions.

Ingredients	Weight %
Water	90.56
Aspartame	0.04
Milk protein	2.35
Sodium citrate	0.34
Vitamin premix	0.15
Sodium benzoate	0.01
Potassium sorbate	0.01
High fructose corn syrup	4.89
Propylene glycol alginate	0.46
Pectin	0.21
Citric acid	0.68
Flavor	0.19
Color	0.12

A tank with high shear is beneficial for completely dispersing and dissolving dry ingredients. Initially, 30 pounds of sodium citrate is dissolved in 3500 pounds of water at 35°C. this is followed by the addition of 208 pounds of dried milk protein concentrate to the sodium citrate solution. The solution is mixed for 2 minutes under high shear, and then is transferred to a larger tank with a low shear mixer for the addition of other ingredients. In a separate vessel, 41 pounds of propylene glycol alginate and 19 pounds of pectin are dissolved in 2000 pounds of water at 65°C and mixed for 5 minutes. The stabilizers are added to the alkaline milk protein.

The remainder of all the other ingredients except the acid are pre-dissolved in 1500 pounds of water and mixed for 2 minutes. The mix is then homogenized in a two-stage piston homogenizer with back pressures of 500/2000 psi. The mix is cooled to less than 5°C and the chilled acid (below 5°C) is added to the homogenized mix with a low shear mixer. The resulting product exhibits little or no sediment.

Thus, the several aforementioned objects and advantages are most effectively attained. Although a single preferred embodiment of the invention has been disclosed and described in detail herein, it should be understood that this invention is in no sense limited thereby and its scope is to be determined by that of the appended claims.

### CLAIMS

What is claimed is:

1. A process for preparing a acidified stable milk-based beverage with a pH below 4.5 which shows little or no sedimentation over time, comprising the following steps:

A. adding milk protein to a solution of a weak base, resulting in a mixture;

B. adding a stabilizer to said mixture;

C. homogenizing said mixture, resulting in a homogenized mixture;

D. cooling said homogenized mixture to a low temperature; and

E. adding an acid at low temperature to said homogenized mixture under low shear conditions;

the execution of steps A, B, C, D and E in series, therefore resulting in a final product.

2. The process as claimed in claim 1 wherein said milk protein is selected from the group consisting of concentrated milk protein, whole milk, skim milk, condensed milk, dehydrated milk and nonfat dry.

3. The process as claimed in claim 1 wherein said milk protein is concentrated milk protein, either in liquid or powder form.

4. The process as claimed in claim 1 wherein said final product contains said milk protein in an amount of from 0.5% to 5.0% by weight.

5. The process as claimed in claim 1 wherein said final product contains said milk protein in an amount of from 1.0% to 4.0% by weight.

6. The process as claimed in claim 1 wherein said weak base is present in an amount sufficient so that said mixture has a pH between 7.0 to 8.0.

7. The process as claimed in claim 1 wherein said weak base is present in an amount sufficient so that said mixture has a pH between 7.3 to 7.7.

8. The process as claimed in claim 1 wherein said weak base is selected from the group consisting of sodium citrate, sodium malate, sodium lactate and sodium fumarate.

9. The process as claimed in claim 1 wherein said weak base is sodium citrate.

10. The process as claimed in claim 1 wherein said stabilizer is selected from the group consisting of carboxymethylcellulose, gum arabic, gelatin, xanthan, locust bean, propylene glycol alginate and pectin.

11. The process as claimed in claim 1 wherein said stabilizer is a blend of propylene glycol alginate and pectin.

12. The process as claimed in claim 1 wherein said step of adding a stabilizer further comprises adding said stabilizer in an amount ranging from 0.1% to 2.0% by weight.

13. The process as claimed in claim 1 wherein said step of adding a stabilizer further comprises adding said stabilizer in an amount ranging from 0.3% to 1.0% by weight.

14. The process as claimed in claim 1 wherein said wherein said step of adding a stabilizer further comprises fully hydrating said stabilizer prior to addition.

15. The process as claimed in claim 1 wherein said step of homogenizing is conducted at a homogenizer pressure of 500/2000 psi.

16. The process as claimed in claim 1 wherein said low temperature of said step of cooling is below 30°C.

17. The process as claimed in claim 1 wherein said low temperature of said step of cooling is below 10°C.

18. The process as claimed in claim 1 wherein said acid is selected from the group consisting of malic acid, lactic acid, citric acid, gluconic acid, succinic acid, tartaric acid, phosphoric acid, fumaric acid and ascorbic acid.

19. The process according to claim 1 wherein said acid is citric acid.

20. The process as claimed in claim 1 wherein said step of adding acid further involves the step of cooling said acid to below 20°C prior to addition.

21. The process as claimed in claim 1 wherein said step of adding acid further involves the step of cooling said acid to below 10°C prior to addition.

22. The process as claimed in claim 1 wherein said step of adding acid comprises adding said acid in an amount sufficient to result in a pH between 3.2 and 4.5.

23. The process as claimed in claim 1 wherein said step of adding acid comprises adding said acid in an amount sufficient to result in a pH between 3.8 and 4.2.

24. The process as claimed in claim 1 further comprising the step of adding at least one of a caloric sweetener, an artificial sweetener, a preservative and a vitamin.

25. An acidified stable milk-based beverage containing milk protein in which said milk proteins are in a stable suspension, wherein said milk protein is added to a solution of a weak base, thereby resulting in a mixture, wherein said mixture is agitated under low to medium shear conditions, wherein said mixture has a pH above 7.0 prior to the addition of a stabilizer, wherein said stabilizer is added to said mixture, wherein said mixture is homogenized and cooled, wherein a food grade acid is added to said mixture under low shear conditions following homogenization and cooling, wherein said acid is added in an amount sufficient to result in a pH below 4.5, thereby resulting in a final product, said final product being said acidified stable milk-based beverage.

26. The milk-based beverage of claim 25 wherein said milk protein is selected from the group consisting of concentrated milk protein, whole milk, skim milk, condensed milk, dehydrated milk and nonfat dry milk.
27. The milk-based beverage of claim 25 wherein said milk protein is concentrated milk protein, either in liquid or powder form.
28. The milk-based beverage of claim 25 wherein said final product contains milk protein in an amount of 0.5% to 5.0% by weight.
29. The milk-based beverage of claim 25 wherein said final product contains milk protein in an amount of 1.0% to 4.0% by weight.
30. The milk-based beverage of claim 25 wherein said weak base is present in an amount sufficient so that said mixture has a pH between 7.0 to 8.0.
31. The milk-based beverage of claim 25 wherein said weak base is present in an amount sufficient so that said mixture has a pH between 7.3 to 7.7.
32. The milk-based beverage of claim 25 wherein said weak base is selected from the group consisting of sodium citrate, sodium malate, sodium lactate and sodium fumarate.
33. The milk-based beverage of claim 25 wherein said weak base is sodium citrate.



34. The milk-based beverage of claim 25 wherein said stabilizer is selected from the group consisting of carboxymethylcellulose, gum arabic, gelatin, xanthan, locust bean, propylene glycol alginate and pectin.

35. The milk-based beverage of claim 25 wherein said stabilizer is a blend of propylene glycol alginate and pectin.

36. The milk-based beverage of claim 25 wherein said stabilizer is added in an amount ranging from 0.1% to 2.0% by weight.

37. The milk-based beverage of claim 25 wherein said stabilizer is added in an amount ranging from 0.3% to 1.0% by weight.

38. The milk-based beverage of claim 25 wherein said stabilizer is fully hydrated, resulting in a fully hydrated stabilizer, wherein said fully hydrated stabilizer is added to said mixture.

39. The milk-based beverage of claim 25 wherein said mixture is homogenized at a homogenizer pressure of 500/2000 psi.

40. The milk-based beverage of claim 25 wherein said mixture is homogenized and cooled to below 30°C.

41. The milk-based beverage of claim 25 wherein said mixture is homogenized and cooled to below 10°C.

42. The milk-based beverage of claim 25 wherein said acid is selected from the group consisting of malic acid, lactic acid,

citric acid, gluconic acid, succinic acid, tartaric acid, phosphoric acid, fumaric acid, and ascorbic acid.

43. The milk-based beverage of claim 25 wherein said acid is citric acid.

44. The milk-based beverage of claim 25 wherein said acid is cooled to below 10°C prior to addition to said mixture which has been homogenized.

45. The milk-based beverage of claim 25 wherein said acid is cooled to below 10°C prior to addition to said mixture which has been homogenized.

46. The milk-based beverage of claim 25 wherein said acid is added in an amount sufficient so that said final product has a pH between 3.2 and 4.5.

47. The milk-based beverage of claim 25 wherein said acid is added in an amount sufficient so that said final product has a pH between 3.8 and 4.2.

48. The milk-based beverage of claim 25 wherein at least one of a caloric sweetener, an artificial sweetener, a preservative and a vitamin, is added to said mixture, prior to homogenization, in a range of 0.0% to 15% by weight.

### ABSTRACT OF THE DISCLOSURE

Acidic milk based beverage products which do not precipitate over time and are physically stable, and a process for preparing these products, are disclosed. These products contain from about 0.5% to 5.0% milk proteins and 0.1 to 2.0% of a food stabilizer and a food acid sufficient to lower the pH below 4.5. The first step of the process involves mixing milk proteins with a food grade weak base to raise the pH above 7.0. Food grade stabilizers are added to the elevated pH mixture of milk proteins and base under low shear conditions. Other ingredients are then added to provide the desired sweetness, flavor, color and microbiological stability. This mixture is homogenized before acidification. A chilled food grade acid is then added at a temperature below 30 °c under low to moderate shear conditions.